

ASSESSMENT AREA FORECLOSURE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends foreclosure provisions in the Assessment Area Act.

Highlighted Provisions:

This bill:

- ▶ modifies the methods by which a local entity may enforce an assessment lien; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42-502, as enacted by Laws of Utah 2007, Chapter 329

ENACTS:

11-42-502.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-42-502** is amended to read:

11-42-502. Enforcement of an assessment lien initiated before May 10, 2016.

(1) The provisions of this section apply to any property that is the subject of a foreclosure procedure initiated before May 10, 2016, for an assessment or an installment of an assessment that is not paid when due.

~~(1)~~ (2) If an assessment or an installment of an assessment is not paid when due, the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs, in the manner provided:

(a) by resolution or ordinance of the local entity;

(b) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for

33 delinquent general property taxes; or

34 (c) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a
35 trust deed in favor of the local entity.

36 ~~[(2)]~~ (3) Except as ~~[modified by]~~ otherwise provided in this chapter, each tax sale
37 under Subsection ~~[(1)]~~ (2)(b) shall be governed by Title 59, Chapter 2, Part 13, Collection of
38 Taxes, to the same extent as if the sale were for the sale of property for delinquent general
39 property taxes.

40 ~~[(3)]~~ (4) (a) In a foreclosure under Subsection ~~[(1)]~~ (2)(c):

41 (i) the local entity may bid at the sale;

42 (ii) the local entity's governing body shall designate a trustee satisfying the
43 requirements of Section 57-1-21;

44 (iii) each trustee designated under Subsection ~~[(3)]~~ (4)(a)(ii) has a power of sale with
45 respect to the property that is the subject of the delinquent assessment lien;

46 (iv) the property that is the subject of the delinquent assessment lien is considered to
47 have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to
48 exercise the trustee's power of sale under Subsection ~~[(3)]~~ (4)(a)(iii);

49 (v) if no one bids at the sale and pays the local entity the amount due on the
50 assessment, plus interest and costs, the property is considered sold to the local entity for those
51 amounts; and

52 (vi) the local entity's chief financial officer may substitute and appoint one or more
53 successor trustees, as provided in Section 57-1-22.

54 (b) The designation of a trustee under Subsection ~~[(3)]~~ (4)(a)(ii) shall be disclosed in
55 the notice of default that the trustee gives to commence the foreclosure, and need not be stated
56 in a separate instrument.

57 ~~[(4)]~~ (5) (a) The redemption of property that is the subject of a tax sale under
58 Subsection ~~[(1)]~~ (2)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

59 (b) The redemption of property that is the subject of a foreclosure proceeding under
60 Subsection ~~[(1)]~~ (2)(c) is governed by Title 57, Chapter 1, Conveyances.

61 ~~[(5)]~~ (6) (a) The remedies provided for in this part for the collection of an assessment
62 and the enforcement of an assessment lien are cumulative.

63 (b) The use of one or more of the remedies ~~[provided for]~~ described in this part ~~[may~~

64 ~~not be considered to]~~ does not deprive the local entity of any other available remedy or means
65 of collecting the assessment or enforcing the assessment lien.

66 Section 2. Section **11-42-502.1** is enacted to read:

67 **11-42-502.1. Enforcement of an assessment lien initiated on or after May 10, 2016.**

68 (1) The provisions of this section apply to any property that is the subject of a
69 foreclosure procedure initiated on or after May 10, 2016, for an assessment or an installment of
70 an assessment that is not paid when due.

71 (2) If an assessment or an installment of an assessment is not paid when due, the local
72 entity may sell the property on which the assessment has been levied for the amount due plus
73 interest, penalties, and costs:

74 (a) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the
75 sale of property for delinquent general property taxes; or

76 (b) by judicial foreclosure.

77 (3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(a)
78 shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if
79 the sale were for the sale of property for delinquent general property taxes.

80 (4) (a) The redemption of property that is the subject of a tax sale under Subsection
81 (2)(a) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

82 (b) The redemption of property that is the subject of a judicial foreclosure proceeding
83 under Subsection (2)(b) is governed by Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.

84 (5) (a) The remedies described in this part for the collection of an assessment and the
85 enforcement of an assessment lien are cumulative.

86 (b) The use of one or more of the remedies described in the part does not deprive the
87 local entity of any other available remedy or means of collecting the assessment or enforcing
88 the assessment lien.